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FEE TRANSMITTAL For FY 2008

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$) 510.00

Complete if Known

Application Number	10/777,655-Conf. #5625
Filing Date	February 13, 2004
First Named Inventor	Young Jae JEON
Examiner Name	G. J. Madamba
Art Unit	2151
Attorney Docket No.	0465-1148P

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____
☒ Deposit Account Deposit Account Number: 02-2448 Deposit Account Name: Birch, Stewart, Kolasch & Birch, LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Total Claims Extra Claims Fee (\$) Fee Paid (\$)
27 - 30 = x =

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims Extra Claims Fee (\$) Fee Paid (\$)
3 - 3 = x =

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$) Fee Paid (\$)
- 100 = /50 = (round up to a whole number) x =

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): 1402 Filing a brief in support of an appeal 510.00

SUBMITTED BY

Signature	<i>Esther Chong</i>	Registration No. (Attorney/Agent)	40,953	Telephone	(703) 205-8000
Name (Print/Type)	Esther H. Chong	Date	February 5, 2008		



MS APPEAL BRIEF - PATENTS

Docket No.: 0465-1148P

(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Young Jae JEON

Application No.: 10/777,655

Confirmation No.: 5625

Filed: February 13, 2004

Art Unit: 2151

For: HOME NETWORK SYSTEM AND METHOD
OF PROVIDING OPERATION HISTORY FOR
SAME

Examiner: G. J. Madamba

APPEAL BRIEF TRANSMITTAL FORM

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an Appeal Brief on behalf of the Appellant in connection with the above-identified application.

☐ The enclosed document is being transmitted via the Certificate of Mailing provisions of 37 C.F.R. § 1.8.

A Notice of Appeal was filed on December 5, 2007.

☐ Applicant claims small entity status in accordance with 37 C.F.R. § 1.27.

The fee has been calculated as shown below:


☐ Extension of time fee pursuant to 37 C.F.R. §§ 1.17 and 1.136(a) - \$@@@.

- ☒ Fee for filing an Appeal Brief - \$510.00 (large entity).
- ☐ Check(s) in the amount of \$@@@ is(are) attached.
- ☒ Please charge Deposit Account No. 02-2448 in the amount of \$510.00.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: February 5, 2008

Respectfully submitted,

By 
Esther H. Chong
Registration No.: 40,953
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant

Attachment: Appeal Brief





Docket No.: 0465-1148P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Young Jae JEON

Application No.: 10/777,655

Confirmation No.: 5625

Filed: February 13, 2004

Art Unit: 2151

For: HOME NETWORK SYSTEM AND METHOD
OF PROVIDING OPERATION HISTORY FOR
SAME

Examiner: G. J. Madamba

BRIEF ON APPEAL UNDER 37 C.F.R. § 41.37

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

As required under § 41.37(a) and 37 CFR § 1.136(a) , this brief is filed within two months of the Notice of Appeal filed in this case on December 5, 2007, and is in furtherance of said Notice of Appeal.

The fees required under § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

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This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1205:

- I. Real Party In Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to be Reviewed on Appeal
- VII. Argument
- VIII. Claims
- IX. Evidence
- X. Related Proceedings
- Appendix A. Claims
- Appendix B: Evidence
- Appendix C: Related Proceedings

I. Real Party in Interest

The real party in interest for this Application is LG Electronics Inc., as evidenced by an Assignment recorded on February 13, 2004 at Reel 014988, Frame 0104.

II. Related Appeals and Interferences

To the best of Appellant's knowledge, there are no other prior or pending appeals of this Application, or patent interference proceedings, or judicial proceedings which may be related to, directly affect, or be directly affected by, or have a bearing on the Board's decision of this Appeal.

III. Status of Claims

In the Application on appeal, claims 1-5, 8-13, 15-26 and 28-31 are pending. Claims 1, 9 and 15 are independent. All other previously pending claims have been canceled. Claims 1-5, 8-13, 15-26 and 28-31 are finally rejected and are on appeal.

IV. Status of Amendments

The Amendment under 37 C.F.R. § 1.116, filed on September 5, 2007, has been entered for purposes of appeal, as indicated in the Advisory Action dated October 17, 2007, and sets forth pending claims 1-5, 8-13, 15-26 and 28-31. The entry of this Amendment is significant because, as amended, claim 1 includes the subject matter of canceled claim 7; claim 9, as amended, contains the subject matter of canceled claim 14; and claim 15, as amended, contains the subject matter of claim 27. Moreover, because claims 7, 9 and 27 were rejected on three references, i.e., Smyers, Sitnik and Klosterman, claims 1, 9 and 15, as amended, are finally rejected over all three references, i.e., Smyers, Sitnik and Klosterman, whereas the final Office Action itself refers to less than all three of these references in a number of the rejections. It is in this context that the arguments which traverse the final rejection of the pending claims are presented.

V. Summary of the Claimed Subject Matter

Claim 1 is directed to a home network system comprising at least one slave device (disclosed, for example in the second sentence of paragraph [0019] and shown in Fig. 1); and a television receiver operatively connected to the at least one slave device (disclosed, for example, in the last sentence of paragraph [0019], the television receiver comprising a microprocessor (22, disclosed, for example in the first sentence of paragraph [0020] and shown in Fig. 1) operatively connected to the at least one slave device for repeatedly sending a status request signal to the at least one slave device and receiving one or more response signals from the at least one slave device; a memory (disclosed, for example, in the first sentence of paragraph [0021]) coupled to the microprocessor (22) for constructing an operation history database by cumulatively storing operation status data of the at least one slave device included in each response signal (disclosed, for example, in the first sentence of paragraph [0021]), wherein the microprocessor (22) extracts data from the operation history database when a history inquiry request is received from a user; and a display unit (23, disclosed, for example, in the second sentences of paragraph [0021] and [0022]) coupled to the microprocessor (22) for displaying the extracted operation history data, wherein (1) the operation status data includes data related to specific functions performed by the at least one slave device (disclosed, for example, in the first and second sentences of paragraph [0021] and the third sentence of paragraph [0025]), (2) the television receiver includes a capability to activate a message BLOCK function which prevents messages sent from the at least one slave device from being displayed (disclosed, for example, in the second and third sentences of paragraph [0022]), and (3) the memory cumulatively stores the operation status data included

in each response signal even when the message BLOCK function of the television receiver is currently activated (disclosed, for example, in the third sentence of paragraph [0022] and in the first sentence of paragraph [0026]).

Claim 3 is directed to the home network system of claim 1, wherein the displayed operation history data includes a list of operations or events performed by the at least one slave device during a predetermined period of time (disclosed, for example, in the last sentence of paragraph [0021]).

Claim 4 is directed to the home network system of claim 1, wherein the history inquiry request received from the user includes a user selection of a period of time, and the displayed operation history data includes a list of operations or events performed by each of the at least one slave device during the selected period of time (disclosed, for example, throughout paragraphs [0021], [0023] and [0029]).

Claim 5 is directed to the home network system of claim 1, wherein the operation status data included in each response signal includes information indicating initiation or completion of an operation and a corresponding time of the initiation or completion (disclosed, for example, in the second sentence of paragraph [0031]).

6-7. (Canceled)

Claim 9 is directed to a television (TV) receiver (disclosed, for example, in the first sentence of paragraph [0012]) connected to a plurality of slave devices (disclosed, for example, in the last sentence of paragraph [0019] and shown in Fig. 1) in a home network system, the TV receiver comprising microprocessor (22, shown in Fig. 2 and discussed in paragraphs [0012] and [0013]) coupled to the plurality of slave devices for repeatedly sending status request signals to the plurality of slave devices and receiving one or more response signals from each of the plurality of slave devices; a memory (disclosed, for example, in the first sentence of paragraph [0021]) coupled to the microprocessor for constructing an operation history database by cumulatively storing operation status data of the plurality of slave devices included in each response signal (disclosed, for example, throughout paragraphs [0012] and [0013]), wherein the microprocessor extracts data from the operation history database when a history inquiry request is received from a user (disclosed, for example, in the last sentence of paragraph [0011]); and a display unit (23, disclosed, for example, in the second sentences of paragraphs [0021] and [0022]) coupled to the microprocessor (22) for displaying the extracted operation history data, wherein (1) the operation status data includes data related to specific functions performed by the at least one slave device (disclosed, for example, in the first and second sentences of paragraph [0021] and the third sentence of paragraph [0025]), (2) the television receiver includes a capability to activate a message BLOCK function which prevents messages sent from the at least one slave device from being displayed (disclosed, for example, in the second and third sentences of paragraph [0022]), and (3) the memory cumulatively stores the operation status data included in each response signal even when the message BLOCK function of the television receiver is

currently activated (disclosed, for example, in the third sentence of paragraph [0022] and in the first sentence of paragraph [0026]).

Claim 11 is directed to the television (TV) receiver of claim 9, wherein the displayed operation history data includes a list of operations or events performed by one or more of the plurality of slave devices during a predetermined period of time (disclosed, for example, in the last sentence of paragraph [0021]).

Claim 12 is directed to the television (TV) receiver of claim 9, wherein the history inquiry request received from the user includes a user selection of at least one slave device, and the displayed operation history data includes a list of operations or events performed by each selected slave device during a predetermined period of time (disclosed, for example, throughout paragraphs [0021], [0023] and [0029]).

Claim 13 is directed to the television (TV) receiver of claim 9, wherein the history inquiry request received from the user includes a user selection of a period of time, and the displayed operation history data includes a list of operations or events performed by each slave device during the selected period of time (disclosed, for example, throughout paragraphs [0021], [0023] and [0029]).

Claim 15 is directed to a method of providing operation history data in a home network

system, the method comprising repeatedly sending status request signals from a television receiver to a plurality of slave devices, respectively (disclosed, for example, in the third sentence of paragraph [0011] and the second sentence of paragraph [0012]); receiving one or more response signals sent by each slave device in response to the status request signals (disclosed, for example in the first sentence of paragraph [0013] and in the first sentence of paragraph [0020]); constructing an operation history database in a memory by cumulatively storing operation status data of the plurality of slave devices included in each response signal into the memory (disclosed, for example, in the first sentence of paragraph [0021]); extracting data from the operation history database when a history inquiry request is received from a user (disclosed, for example, in the second sentences of paragraphs [0021] and [0022]), wherein the extracted operation history data is displayed on a display unit (23, disclosed, for example, in the second sentences of paragraphs [0021] and [0022]); activating a message BLOCK function which prevents messages sent from the plurality of slave devices from being displayed; and continuing to cumulatively store the operation status data in each response signal even when the message BLOCK function is activated (disclosed, for example, in the second and third sentences of paragraph [0022]), wherein the operation status data includes data related to specific functions performed by the plurality of slave devices (disclosed, for example, in the first and second sentences of paragraph [0021] and the third sentence of paragraph [0025]).

Claim 17 is directed to the method of claim 15, wherein the displayed operation history data includes a list of operations or events performed by the plurality slave devices during a

predetermined period of time (disclosed, for example, in the last sentence of paragraph [0021]).

Claim 19 is directed to the method of claim 15, wherein the operation status data included in each response signal includes information indicating initiation of one or more operations by a slave device and a time of the initiation (disclosed, for example, in paragraph [0025] and in originally filed claim 19).

Claim 20 is directed to the method of claim 15, wherein the operation status data included in each response signal includes information indicating completion of one or more operations by a slave device and a time of the completion (disclosed, for example, in paragraph [0025] and in originally filed claim 20).

Claim 22 is directed to the method of claim 15, wherein the history inquiry request received from the user includes a user selection of at least one slave device, and the displayed data includes a list of operations or events performed by each selected slave device during a predetermined period of time (disclosed, for example, in the last sentence of paragraph [0021]).

Claim 23 is directed to the method of claim 15, wherein the history inquiry request received from the user includes a user selection of a period of time, and the displayed operation history data includes a list of operations or events performed by each slave device during the selected period of time (disclosed, for example, throughout paragraphs [0021], [0023] and

[0029]).

Claim 24 is directed to the method of claim 15, wherein the user automatically makes the history inquiry request by turning the power of the television receiver on (disclosed, for example, in paragraph [0032]).

Claim 25 is directed to the method of claim 15, wherein the user manually makes the history inquiry request by activating a corresponding function key provided within the television receiver (disclosed, for example, in paragraphs [0032]).

VI. Grounds of Rejection to be Reviewed on Appeal

Claims 1, 3-5, 9, 12, 15, 18-23, 25-26, 28-29 and 31 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Smyers (U.S. Patent 6,430,629) in view of Sitnik (U.S. Patent 6,988,276 and in view of U.S. patent application Publication 2000/0092017 to Klosterman.

The final Office Action indicates that Smyers discloses a number of aspects of the claimed invention but fails to disclose (1) “the recited feature of home network system wherein the master device is a ‘television receiver’,” and (2) “wherein the master device includes a capability to activate a message BLOCK function which prevents messages sent from the at least on (sic: one) slave device from being displayed” and (3 “wherein the memory *cumulatively* stores the operation status data included in each response signal, regardless of whether a message BLOCK function of the master device is currently activated or not.”

The final Office Action indicates that Sitnik discloses peer-to-peer network communications between televisions, and discloses, in col. 1, lines 25-36 discloses a home network system in which the master device is a television receiver, and is “in a related endeavor.” The final Office Action concludes that it would be obvious to modify Smyers to provide a television receiver operatively connected to at least one slave device for sending and receiving status reports from the at least one slave device, the motivation being of sharing information about viewed audio-visual content, specifically, and enhancing the primary leisure function of a TV, in general.

The final Office Action also indicates that Klosterman discloses as audio blocking bit

(ABB) or video blocking bit (VBB) wherein a user may activate an electronic program guide (EPG). The Examiner notes that Klosterman allows television programming signals to be received or stored in the receiver device while the display of the signal is blocked from view or replaced with alternative graphics and/or text.

The final Office Action concludes that it would be obvious to modify Smyers to provide a master device that includes the capability of activating a message BLOCK function which prevents messages sent from the at least one slave device from being displayed, and wherein the memory cumulatively stores the operation status included in each response signal regardless of whether a message BLOCK function of the master device is currently activated or not, the motivation being to block out undesired or unwanted television programs, i.e., ads or commercials, according to viewer preferences.

Claims 2, 11, 13, 16 and 17 stand rejected under Smyers, Sitnik and Klosterman, as set forth above, and further in view of U.S. patent 6,826,512.

The final Office Action indicates that the Smyers-Sitnik-Klosterman reference combination does not disclose a microprocessor identifying a slave device on a home network system by checking identification (ID) of the slave device.

Dara-Adams is applied to provide a disclosure of identifying a consumer device over the Internet using device identifying information, e.g., a vendor, a model number or a serial number included in a request.

The Office Action concludes that it would be obvious to modify Smyers so that its

microprocessor identifies the one slave device by using an identification if the slave device.

Claims 8, 10, 24 and 30 stand rejected under 35 USC § 103(a) as being unpatentable over Smyers, Sitnik and Klosterman in view of Klosterman and further in view of U.S. Patent 6,838,978 to Aizu et al. ("Aizu").

With respect to claims 8, 10 and 30, the final Office Action indicates that the Smyers-Sitnik-Klosterman reference combination does not disclose wherein the microprocessor and the at least one slave device are connected together through PLC modems.

The Office Action asserts that Aizu discloses a microprocessor and a plurality of slave devices connected by a PLC modem.

The Office Action concludes that it would be obvious to modify the Smyers-Sitnik-Klosterman reference combination so that its microprocessor and at least one slave device are connected by PLC modems.

With respect to claim 24, the Office Action indicates that Sitnik discloses a master device as a television set, and relies on this reference to render obvious the claimed feature of automatically making a history inquiry by turning on the television receiver.

VII. Argument

Initially, Appellant respectfully submits that not all of the claims stand and fall together.

For example, dependent claims 3, 4, 5, 11, 12, 13, 15, 17, 19, 20, 21, 22, 23, 24 and 25 are separately patentable and do not stand or fall together with the independent claim from which each dependent claim depends. Additionally, system claim 1 and apparatus claim 9 do not stand or fall together, nor does method claim 15 stand or fall together with either system claim 1 or apparatus claim 9. Reasons in support of this position are found, below.

Claims 1, 3-5, 9, 12, 15, 18-23, 25-26, 28-29 and 31 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Smyers (U.S. Patent 6,430,629) in view of Sitnik (U.S. Patent 6,988,276 and in view of U.S. patent application Publication 2000/0092017 to Klosterman.

Appellant respectfully submits that this rejection is improper and should be reversed for a number of reasons, discussed below.

In rejecting claims under 35 U.S.C. § 103, it is incumbent on the Examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one of ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention.

Such reason must stem from some teaching, suggestion or implication in the prior art as a

whole or knowledge generally available to one having ordinary skill in the art. Uniroyal Inc. v. F-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 The Examiner may not pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve Inc., 796 F.2d 443, 448, 230 USPQ 416, 419 (Fed. Cir. 1986), cert. denied, 484 U.S. 823 (1987) and In re Kamm, 452 F.2d 1052, 1057, 172 USPQ 298, 301-2 (CCPA 1972), and obviousness cannot be established by locating references which describe various aspects of Appellant's invention without also providing evidence of the motivating force which would impel one skilled in the art to do what Appellant has done. Ex parte Levengood, 28 USPQ2d 1300, 1302 (Bd. App. & Int. 1993). These showings by the Examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. These showings must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing alone, are not "evidence." See In re Dembiczak, 175 F.3d 994 at 1000, 50 USPQ2d 1614 at 1617 (Fed. Cir. 1999). Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783-84 (Fed. Cir.

1992). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be suggested or taught by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1970). All words in a claim must be considered in judging the patentability of that claim against the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Moreover, a factual inquiry whether to modify a reference must be based on objective evidence of record, not merely conclusory statements of the Examiner. See In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

Initially, Appellant respectfully submits that there are fundamental differences between the claimed invention and the three references applied in this rejection.

Appellant respectfully submits that not one of these references discloses (1) a television receiver that includes the capability to activate a message block function which prevents messages sent from at least one slave device from being displayed, or (2) a memory that cumulatively stores the operation status of at least one slave device included in each slave device response signal even when the message block function of the TV receiver is currently activated, as recited in all claims.

Because these claimed features are found in any of the applied references, logically, there is no basis in these references to provide them in any combination of those references. Moreover, the final Office Action does not explain where these positively recited features are found in any of the three applied references, nor does the final Office Action provide any other objective factual evidence to provide these missing features.

Accordingly, this rejection is based on unwarranted speculation and/or impermissible

hindsight, based solely on Appellant's disclosure, instead of on objective evidence of record.

Additionally, there are significant differences among those three reference themselves that are overlooked in the Office Action, that teach away from making the proposed modifications of Smyers on which this rejection is based.

Appellant respectfully submits that the significant differences between the three applied references in this rejection teach away from making the proposed combination of references (which, as explained above, cannot possibly result in, or otherwise render obvious, the claimed invention). In this regard, Appellant respectfully submits that, to establish a *prima facie* case of obviousness, one must show "some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references." In re Fine, 837 F.2d 1071 at 1074, 5 USPQ2d 1586 at 1598. There is no suggestion to combine, however, if a reference teaches away from its combination with another source. *See, id.* at 1075, 5 USPQ2d at 1599. "A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant . . . [or] if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicant." In re Gurley, 27 F.3d 551, 553, 31 USPQ2d 1130, 1131 (Fed. Cir. 1994). If when combined, the references "would produce a seemingly inoperative device," then they teach away from their combination. In re Sponnoble, 405 F.2d 578, 587, 160 USPQ 237, 244 (CCPA 1969); *see also* In re Gordon, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed.

Cir. 1984) (finding no suggestion to modify a prior art device where the modification would render the device inoperable for its intended purpose).

Appellant respectfully submits that Smyers discloses a home network controlling a variety of devices including a set top box, a video cassette recorder, a digital camera and a thermometer, with a user interface 160 that can be built directly into the monitor (col. 2, lines 23-33). Smyers has no disclosure of a TV set being used as a master controller. Additionally, according to the final Office Action, Smyers admittedly fails to disclose three positively recited features of the claimed invention, i.e., (1) “the recited feature of home network system wherein the mater device is a ‘television receiver’,” and (2) “wherein the master device includes a capability to activate a message BLOCK function which prevents messages sent from the at least on (sic: one) slave device from being displayed” and (3 “wherein the memory *cumulatively* stores the operation status data included in each response signal, regardless of whether a message BLOCK function of the master device is currently activated or not.”

Sitnik, the first applied secondary reference, discloses that various types of local networks, e.g., in-home, networks exist, most of which are designed with master/slave operability (col. 1, lines 12-37), but that Sitnik us directed to a peer-to-peer network that provides a method of enhancing the primary leisure function of a TV. A query request is sent from any network connected TV to any other network connected TV to identify content being watched on the queried TV and may permit a program being displayed on a queried TV to be displayed on another network connected TV. In other words, although Sitnik discusses various types of home network operation, including master/slave operation, Sitnik deliberately aims its

invention not at master/slave operation but, rather, peer-to-peer operation, and it is in this peer-to-peer context that Sitnik employs television sets to enhance the primary leisure function of a TV by determining whether a TV program on one TV set on a home network can and should be shown on another TV set on that home network. Sitnik's peer-to-peer query operation has nothing whatsoever to do with Smyers' master-slave status inquiries, and the Office Action provides no reasonable nexus between there vastly different modes of operation that would provide a good reason why one of ordinary skill in the art would turn to Sitnik to modify Smyers.

Additionally, the alleged reason to turn to Sitnik is that Sitnik is engaged in a "related endeavor." Appellant respectfully disagrees because Sitnik has no disclosure of a master/slave operational status history generation or storage or need to generate, store or use such a history.

Furthermore, Klosterman, the third reference applied in this rejection, has nothing whatsoever to do with master/slave status query operations on a home network. Instead, Klosterman deals with providing a single TV user with ads and commercials that the user may prefer or someone may want the user to see rather than an ad or commercial broadcast with the program. Klosterman replaces or overlays the tuned program signals with alternative video and/or audio and/or graphics and/or text. In one embodiment, an electronic programming guide (EPG) is used to alter selection and display of advertisements on the TV and, optionally, to block the audio and video of the currently displayed program when the EPG is activated. In other words, the block function disclosed by Klosterman is limited to only being activated when the electronic program guide is activated and only for the limited purpose of blocking the tuned program's audio and video currently being viewed to permit a particular advertisement to be

displayed on the TV. This has nothing to do with the claimed invention, which recites a message BLOCK function which prevents messages sent from a slave device from being displayed and cumulatively stores operation status data included in each response signal even when the message BLOCK signal of the TV receiver is currently activated, or with Sitnik's peer-to-peer TV program distribution over a home network or with Smyers' network node status system.

The Office Action provides no reasonable nexus between these significantly different modes of operation of Smyers and Klosterman that would provide a good reason why one of ordinary skill in the art would turn to Klosterman to modify Smyers. Moreover the statement that one would be motivated to block Smyers' operational history displays, which a user explicitly wants to display in Smyers, is counterproductive and, would effectively frustrate a user of Smyers' system by blocking the very operational history reports that user has asked for. This is an example of where the proposed modification of Smyers by Klosterman would result in an inoperative device in the sense that Smyers would be precluded from operating as intended.

Appellant also submits that even if one of ordinary skill in the art turned to Klosterman to modify Smyers' home network TV to include a block function to temporarily block a displayed tuned TV program signals to display a particular commercial, this would not result in, or render obvious, the claimed invention.

In this regard, Appellant notes that, to establish a *prima facie* case of obviousness, one must show "some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references." In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). There

is no suggestion to combine, however, if a reference teaches away from its combination with another source. *See id.* at 1075, 5 USPQ2d at 1599. "A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant . . . [or] if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicant." In re Gurley, 27 F.3d 551, 553, 31 USPQ2d 1130, 1131 (Fed. Cir. 1994). If when combined, the references "would produce a seemingly inoperative device," then they teach away from their combination. In re Spinnoble, 405 F.2d 578, 587, 160 USPQ 237, 244 (CCPA 1969); *see also In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984) (finding no suggestion to modify a prior art device where the modification would render the device inoperable for its intended purpose).

Thus, Klosterman actually teaches away from being combined with the other applied references.

Accordingly, the Office Action fails to make out a *prima facie* case that one of ordinary skill in the art would turn to Sitnik to modify Smyers in any way, let alone the suggested way.

Furthermore, dependent claims 3, 11, 12, 17 and 22 additionally patentably define, respectively, over claims 1, 9 and 15, and over the applied art, because none of the applied art discloses or suggests that the displayed operation history includes a list of operations or events performed during a predetermined period of time.

Additionally, dependent claims 4, 13 and 23 patentably define, respectively, over claims

1, 9 and 15, and over the applied art, because none of the applied art discloses or suggests that the history inquire request received from the user includes a user selection of a period of time, and the displayed operation history data includes a list of operations or events performed by each of the at least one slave device during the selected period of time.

Moreover, dependent claims 5, 19 and 20 additionally patentably define, respectively, over claims 1 and 15, and over the applied art, because none of the applied art discloses or suggests that the operation status data included in each response signal includes information indicating an initiation of a completion of one or more operations.

Also, dependent claims 24 and 25 additionally patentably define over claim 15, and over the applied art, because none of the applied art discloses or suggests that the history inquiry request is made by turning on a TV receiver or pushing a function key located within the TV receiver.

Accordingly, the rejection of claims 1, 3-5, 9, 12, 15, 18-23, 25-26, 28-29 and 31 is improper and should be reviewed.

Claims 2, 11, 13, 16 and 17 stand rejected under 35 USC § 103(a) as being unpatentable over Smyers, Sitnik and Klosterman, as set forth above, and further in view of U.S. Patent 6,826,512 to Dara-Abrams.

This rejection is improper and should be reversed for reasons discussed above and below.

With respect to claims 2, 11, 13, 16 and 17, even if one of ordinary skill in the art were properly motivated to identify at least one slave device by checking an identification of the slave device, the Smyers-Sitnik-Klosterman reference combination still would not render obvious the

invention recited in claims 1, 9 or 15, from which these claims depend, for reasons stated above.

Additionally, Appellant respectfully submits that Dara-Abrams does not provide proper motivation to modify Smyers or Smyers-Sitnik-Klosterman to connect a TV receiver that contains the recited microprocessor, memory and display unit to a slave device because Dara-Abrams has nothing to do with a master-slave operation on a network.

Accordingly, Appellant respectfully submits that the outstanding final rejections of claims 2, 11, 13, 16 and 17 are improper and should be reversed.

Claims 8, 10, 24 and 30 stand rejected under 35 USC § 103(a) as being unpatentable over Smyers, Sitnik and Klosterman, as set forth above, and further in view of U.S. Patent 6,838,978 to Aizu et al. ("Aizu").

This rejection is improper and should be reversed for reasons discussed above and below.

Applicant respectfully submits that, even if one of ordinary skill in the art were properly motivated to connect the microprocessor and at least one slave device through PLC modems, the Smyers-Sitnik-Klosterman reference combination still would not render obvious the invention recited in claims 1, 9 or 15, from which these claims depend, for reasons stated above.

Accordingly, Appellant respectfully submits that the outstanding final rejections of claims 8, 10, 24 and 30 are improper and should be reversed.

VIII. CLAIMS

A copy of the claims involved in the present appeal is attached hereto as Appendix A. As indicated above, the claims in Appendix A do include the amendments filed by Appellant on September 5, 2007.

IX. EVIDENCE

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the Examiner is being submitted.

X. RELATED PROCEEDINGS

No related proceedings are referenced in Section II above.

CONCLUSION

Appellant respectfully submits that claims 1-5, 8-13, 15-26 and 28-31 are patentable over the applied art and that all of the rejections and objections of record should be reversed.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

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Respectfully submitted,

By Esther Chong
Esther H. Chong
Registration No.: 40,953
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Rd
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Appellant

EHC/RJW:tm



APPENDIX A: CLAIMS

1. (Previously Presented) A home network system comprising:

at least one slave device; and

a television receiver operatively connected to the at least one slave device, the television receiver comprising:

a microprocessor operatively connected to the at least one slave device for repeatedly sending a status request signal to the at least one slave device and receiving one or more response signals from the at least one slave device;

a memory coupled to the microprocessor for constructing an operation history database by cumulatively storing operation status data of the at least one slave device included in each response signal, wherein the microprocessor extracts data from the operation history database when a history inquiry request is received from a user; and

a display unit coupled to the microprocessor for displaying the extracted operation history data,

wherein (1) the operation status data includes data related to specific functions performed by the at least one slave device, (2) the television receiver includes a capability to activate a message BLOCK function which prevents messages sent from the at least one slave device from being displayed, and (3) the memory cumulatively stores the operation status data included in each response signal even when the message BLOCK function of the television receiver is currently activated.

2. (Previously Presented) The home network system of claim 1, wherein the microprocessor identifies the at least one slave device by checking an identification (ID) of the at least one slave device.

3. (Previously Presented) The home network system of claim 1, wherein the displayed operation history data includes a list of operations or events performed by the at least one slave device during a predetermined period of time.

4. (Previously Presented) The home network system of claim 1, wherein the history inquiry request received from the user includes a user selection of a period of time, and the displayed operation history data includes a list of operations or events performed by each of the at least one slave device during the selected period of time.

5. (Original) The home network system of claim 1, wherein the operation status data included in each response signal includes information indicating initiation or completion of an operation and a corresponding time of the initiation or completion.

6-7. (Canceled)

8. (Original) The home network system of claim 1, wherein the microprocessor and the at least one slave device are connected together through Power Line Communication (PLC)

modems.

9. (Previously Presented) A television (TV) receiver connected to a plurality of slave devices in a home network system, the TV receiver comprising:

microprocessor coupled to the plurality of slave devices for repeatedly sending status request signals to the plurality of slave devices and receiving one or more response signals from each of the plurality of slave devices;

a memory coupled to the microprocessor for constructing an operation history database by cumulatively storing operation status data of the plurality of slave devices included in each response signal, wherein the microprocessor extracts data from the operation history database when a history inquiry request is received from a user; and

a display unit coupled to the microprocessor for displaying the extracted operation history data,

wherein (1) the operation status data includes data related to specific functions performed by the plurality of slave devices, (2) the television (TV) receiver includes a capability to activate a message BLOCK function which prevents messages sent from the at least one slave device from being displayed, and (3) the memory cumulatively stores the operation status data included in each response signal even when the message BLOCK function of the television (TV) receiver is currently activated.

10. (Original) The television (TV) receiver of claim 9, wherein the microprocessor and the plurality of slave devices are connected together through Power Line Communication (PLC) modems.

11. (Previously Presented) The television (TV) receiver of claim 9, wherein the displayed operation history data includes a list of operations or events performed by one or more of the plurality of slave devices during a predetermined period of time.

12. (Original) The television (TV) receiver of claim 9, wherein the history inquiry request received from the user includes a user selection of at least one slave device, and the displayed operation history data includes a list of operations or events performed by each selected slave device during a predetermined period of time.

13. (Original) The television (TV) receiver of claim 9, wherein the history inquiry request received from the user includes a user selection of a period of time, and the displayed operation history data includes a list of operations or events performed by each slave device during the selected period of time.

14. (Cancel)

15. (Previously Presented) A method of providing operation history data in a home

network system, the method comprising:

repeatedly sending status request signals from a television receiver to a plurality of slave devices, respectively;

receiving one or more response signals sent by each slave device in response to the status request signals;

constructing an operation history database in a memory by cumulatively storing operation status data of the plurality of slave devices included in each response signal into the memory;

extracting data from the operation history database when a history inquiry request is received from a user, wherein the extracted operation history data is displayed on a display unit;

activating a message BLOCK function which prevents messages sent from the plurality of slave devices from being displayed; and

continuing to cumulatively store the operation status data in each response signal even when the message BLOCK function is activated,

wherein the operation status data includes data related to specific functions performed by the plurality of slave devices.

16. (Original) The method of claim 15, further comprising identifying the plurality of slave devices by checking their identifications (IDs).

17. (Original) The method of claim 15, wherein the displayed operation history data includes a list of operations or events performed by the plurality slave devices during a

predetermined period of time.

18. (Original) The method of claim 15, wherein the operation status data included in each response signal includes data indicating a current operation status of a slave device.

19. (Original) The method of claim 15, wherein the operation status data included in each response signal includes information indicating initiation of one or more operations by a slave device and a time of the initiation.

20. (Original) The method of claim 15, wherein the operation status data included in each response signal includes information indicating completion of one or more operations by a slave device and a time of the completion.

21. (Original) The method of claim 15, wherein the operation status data included in each response signal includes information indicating that there is no operation in progress.

22. (Original) The method of claim 15, wherein the history inquiry request received from the user includes a user selection of at least one slave device, and the displayed data includes a list of operations or events performed by each selected slave device during a predetermined period of time.

23. (Original) The method of claim 15, wherein the history inquiry request received from the user includes a user selection of a period of time, and the displayed operation history data includes a list of operations or events performed by each slave device during the selected period of time.

24. (Previously Presented) The method of claim 15, wherein the user automatically makes the history inquiry request by turning the power of the television receiver on.

25. (Previously Presented) The method of claim 15, wherein the user manually makes the history inquiry request by activating a corresponding function key provided within the television receiver.

26. (Previously Presented) The method of claim 15, wherein sending one status request signals to the plurality of slave devices is performed repeatedly.

27. (Canceled)

28. (Previously Presented) The home network system of claim 1, wherein the at least one slave device is configured to respond to the status request signal from the television receiver by sending to the television receiver the response signal that indicates that the at least one slave device is idle.

29. (Previously Presented) The television (TV) receiver of claim 9, wherein the response signals from a particular slave device of the plurality of slave devices indicates that the particular slave device is idle.

30. (Previously Presented) The method of claim 15, wherein the steps of sending the status request signals and receiving the response signals are performed using a PLC modem.

31. (Previously Presented) The method of claim 15, wherein the response signals from a particular slave device of the plurality of slave devices indicates that the particular slave device is idle.

APPENDIX B: EVIDENCE

(None)

APPENDIX C: RELATED PROCEEDINGS

(None)